

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

JOSEFINA MARINE,

Defendant.

22-cr-91 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:


In light of the conflicting arguments in the sentencing submissions regarding Ms. Marine's role in the narcotics conspiracy to which she pled guilty, *see, e.g.*, Def. Sentencing Submission at 4, Dkt. 205 ("Ms. Marine . . . never stored drugs in her bedroom . . . and never handed out drugs to anyone."); Gov. Sentencing Submission at 2, Dkt. 208 ("Each of the conspiracy's many couriers or 'runners[]' . . . received the drugs they were to deliver from Marine, received cash from the customers after delivering them drugs, and returned to the Apartment where Rainey gave the cash to Marine, who, in turn, would provide the cash to Ortega."), the Court will hold a *Fatico* hearing in this matter, *see United States v. Fatico*, 603 F.2d 1053 (2d Cir. 1979). Although Mr. Rainey testified about Ms. Marine's role in the conspiracy at Mr. Ortega's trial, *see Ortega Trial Tr.* at 517–19, Dkt. 130, she did not have an opportunity to cross-examine him at that trial or otherwise "rebut the Government's allegations," *United States v. Cacace*, 796 F.3d 176, 191 (2d Cir. 2015) (quoting *United States v. Broxmeyer*, 699 F.3d 265, 280 (2d Cir. 2012)). The Court thus finds it appropriate to give her the opportunity to do so.

No later than 12:00 p.m. tomorrow, March 7, 2024, the parties shall submit a joint letter as to whether they are prepared to proceed with the *Fatico* hearing this Friday, March 8, 2024, at 10:00 a.m. If not, the parties shall jointly propose dates during the weeks of March 11th, March 18th,

April 8th, or April 15th. The Government shall also inform the Court whether it seeks to adjourn Mr. Rainey's sentencing, currently scheduled for March 8, 2024, at 12:00 p.m.

SO ORDERED.

Dated: March 6, 2024
New York, New York

A handwritten signature in blue ink, appearing to read 'Ronnie Abrams', is written over a horizontal line.

Ronnie Abrams
United States District Judge